



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3801/P2

JK:kjf:jl

P3
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N in 12-8-05
due 12-15-05

an income and franchise tax credit for
re you

- 1 **AN ACT** to amend 77.51 (4) (c) 4. and 77.51 (15) (c) 2.; and to create 77.51 (4) (b)
2 9., 77.51 (7m) and 77.51 (15) (b) 8. of the statutes; relating to: the application
3 of the sales and use tax on construction materials, labor, and services that are
4 sold under a lump sum contract.

Analysis by the Legislative Reference Bureau

Under current law, the amount charged by a person for providing labor or services to install or apply tangible personal property is subject to the sales and use tax. However, the amount charged for labor or services is not subject to the sales and use tax, if the installed or applied tangible personal property will constitute an addition to or capital improvement of real property and if that amount is separately set forth from the amount received for the tangible personal property.

Under this bill, the amount charged as a part of a lump sum contract for tangible personal property or taxable services that are sold as part of the contract is not subject to the sales and use tax, if the total of all such amounts is less than 10 percent of the total amount of the contract and regardless of whether the amounts charged for labor and services are separately set forth from the amount received for the tangible personal property. Under the bill, a lump sum contract is a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for which the contractor subsequently itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document.

This bill creates an income and franchise tax credit for the sales and use taxes that a claimant paid on certain construction materials and services. The credit is equal to the sales and use taxes paid on any

change component This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ~~state and local~~ fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 77.51 (4) (b) 9. of the statutes is created to read:

77.51 (4) (b) 9. Amounts charged as part of a lump sum contract under sub. (7m) for tangible personal property or taxable services that are sold as part of the lump sum contract, if the total of all such amounts charged is less than 10 percent of the total amount of the lump sum contract. For purposes of this subdivision, the cost of the tangible personal property or taxable services to the contractor shall be used as the measure of the tax under this subchapter.

SECTION 2. 77.51 (4) (c) 4. of the statutes is amended to read:

77.51 (4) (c) 4. The price received for labor or services used in installing or applying tangible personal property sold, except the price received for installing or applying property which, when installed or applied, will constitute an addition to or capital improvement of real property and provided such amount is separately set forth from the amount received for the tangible personal property, and except as provided under par. (b) 9.

SECTION 3. 77.51 (7m) of the statutes is created to read:

77.51 (7m) "Lump sum contract" means a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for which the contractor itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document.

SECTION 4. 77.51 (15) (b) 8. of the statutes is created to read;

~~77.51~~ **(15)** (b) 8. Amounts charged as part of a lump sum contract under sub.

(7m) for tangible personal property or taxable services that are sold as part of the

contract, if the total of all such amounts charged is less than 10 percent of the total

amount of the contract. The cost of the tangible personal property or taxable services

to the contractor shall be used as the measure of the tax under this subchapter.

SECTION 5. 77.51 (15) (c) 2. of the statutes is amended to read:

77.51 (15) (c) 2. The amount charged for labor or services rendered in installing

or applying tangible personal property sold, except the price received for installing

~~or applying property which, when installed or applied, will constitute an addition to~~

or capital improvement of real property and provided such amount is separately set

forth from the amount charged for the tangible personal property, and except as

provided under par. (b) 8.

SECTION 6. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after

~~publication.~~

(END)

INSERT
3-16

D-Note

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3801/P3ins
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Insert 3 - 16

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and (5d), and (5e)~~
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25; s. 13.93 (2) (c).

7 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

8 71.07 (5e) LUMP SUM CONTRACT CREDIT. (a) *Definitions.* In this subsection:

9 1. "Claimant" means a contractor who files a claim under this subsection.

10 2. "Contractor" has the meaning given in s. 77.51 (2).

11 3. "Lump sum contract" means a contract to perform real property construction
12 activities and for which the contractor quotes the charge for labor, services of
13 subcontractors, and materials as one price, including a contract for which the
14 contractor itemizes the charges for labor, services of subcontractors, and materials
15 as part of a schedule of values or similar document.

16 4. "Real property construction activities" has the meaning given in s. 77.51 (2).

17 5. "Subcontractors" has the meaning given in s. 77.51 (2).

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
20 amount of those taxes, an amount that is equal to the taxes imposed under ss. 77.52
21 and 77.53 that the claimant paid on amounts charged as part of a lump sum contract
22 for tangible personal property or taxable services that are sold as part of the lump

1 sum contract, if the total of all such amounts charged is less than 10 percent of the
2 total amount of the lump sum contract.

3 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
4 corporations may not claim the credit under this subsection, but the eligibility for,
5 and the amount of, the credit are based on their payment of amounts described under
6 par. (b). A partnership, limited liability company, or tax-option corporation shall
7 compute the amount of credit that each of its partners, members, or shareholders may
8 claim and shall provide that information to each of them. Partners, members of
9 limited liability companies, and shareholders of tax-option corporations may claim
10 the credit in proportion to their ownership interests.

11 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
12 s. 71.28 (4), applies to the credit under this subsection.

13 **SECTION 3.** 71.10 (4) (gxb) of the statutes is created to read:

14 71.10 (4) (gxb) Lump sum contract credit under s. 71.07 (5e).

15 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

16 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
17 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5e) and passed
18 through to partners shall be added to the partnership's income.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326.

19 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

20 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
21 the gross income as computed under the Internal Revenue Code as modified under
22 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
23 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
24 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income

1 under this paragraph at the time that the taxpayer first claimed the credit plus the
2 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
3 (1ds), (1dx), (3g), (3n), (3t), ~~and~~ (5b), and (5e) and not passed through by a
4 partnership, limited liability company, or tax-option corporation that has added that
5 amount to the partnership's, limited liability company's, or tax-option corporation's
6 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
7 other disposition of assets the gain from which would be wholly exempt income, as
8 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
9 minus deductions, as computed under the Internal Revenue Code as modified under
10 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
11 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
12 otherwise disposed of in a taxable transaction during the taxable year, except as
13 provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25.

14 **SECTION 6.** 71.28 (5e) of the statutes is created to read:

15 **71.28 (5e) LUMP SUM CONTRACT CREDIT.** (a) *Definitions.* In this subsection:

16 1. "Claimant" means a contractor who files a claim under this subsection.

17 2. "Contractor" has the meaning given in s. 77.51 (2).

18 3. "Lump sum contract" means a contract to perform real property construction
19 activities and for which the contractor quotes the charge for labor, services of
20 subcontractors, and materials as one price, including a contract for which the
21 contractor itemizes the charges for labor, services of subcontractors, and materials
22 as part of a schedule of values or similar document.

23 4. "Real property construction activities" has the meaning given in s. 77.51 (2).

24 5. "Subcontractors" has the meaning given in s. 77.51 (2).

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, an amount that is equal to the taxes imposed under ss. 77.52 and 77.53 that the claimant paid on amounts charged as part of a lump sum contract for tangible personal property or taxable services that are sold as part of the lump sum contract, if the total of all such amounts charged is less than 10 percent of the total amount of the lump sum contract.

(c) *Limitations.* Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

SECTION 7. 71.30 (3) (epb) of the statutes is created to read:

71.30 (3) (epb) Lump sum contract credit under s. 71.28 (5e).

SECTION 8. 71.34 (1) (g) of the statutes is amended to read:

71.34 (1) (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g), (3n), (3t), and (5b), and (5e) and passed through to shareholders.

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49.

SECTION 9. 71.45 (2) (a) 10. of the statutes is amended to read:

1 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
2 computed under s. 71.47 (1dd) to (1dx), (3n), ~~and (5b)~~, and (5e) and not passed
3 through by a partnership, limited liability company, or tax-option corporation that
4 has added that amount to the partnership's, limited liability company's, or
5 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
6 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326.

7 **SECTION 10.** 71.47 (5e) of the statutes is created to read:

8 71.47 (5e) LUMP SUM CONTRACT CREDIT. (a) *Definitions.* In this subsection:

9 1. "Claimant" means a contractor who files a claim under this subsection.

10 2. "Contractor" has the meaning given in s. 77.51 (2).

11 3. "Lump sum contract" means a contract to perform real property construction
12 activities and for which the contractor quotes the charge for labor, services of
13 subcontractors, and materials as one price, including a contract for which the
14 contractor itemizes the charges for labor, services of subcontractors, and materials
15 as part of a schedule of values or similar document.

16 4. "Real property construction activities" has the meaning given in s. 77.51 (2).

17 5. "Subcontractors" has the meaning given in s. 77.51 (2).

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
20 amount of those taxes, an amount that is equal to the taxes imposed under ss. 77.52
21 and 77.53 that the claimant paid on amounts charged as part of a lump sum contract
22 for tangible personal property or taxable services that are sold as part of the lump
23 sum contract, if the total of all such amounts charged is less than 10 percent of the
24 total amount of the lump sum contract.

(c) *Limitations.* Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 11. 71.49 (1) (epb) of the statutes is created to read:

71.49 (1) (epb) Lump sum contract credit under s. 71.47 (5e).

SECTION 12. 77.92 (4) of the statutes is amended to read:

77.92 (4) "Net business income," with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), and (5b), and (5e); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income," with respect

1 to a natural person, estate, or trust, means profit from a trade or business for federal
2 income tax purposes and includes net income derived as an employee as defined in
3 section 3121 (d) (3) of the Internal Revenue Code.

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326.

4 **SECTION 13. Initial applicability.**

5 (1) This act first applies to taxable years beginning on January 1, 2006.

DA Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3801/P3dn

JK:kjf/f

Date

Representative Albers:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3801/P3dn
JK:kjfrs

December 13, 2005

Representative Albers:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Kreye, Joseph

From: Grant, Peter
Sent: Wednesday, January 04, 2006 9:46 AM
To: Kreye, Joseph
Subject: Albers draft

Joe, Joyce Waldrop called. Albers likes -3801/P3 just the way it is and would like it jacketed today. Call her if there's a problem, 6-0427.

Peter



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3801/P3

JK:kj:fs

RNR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 1-4-06

Today please

Regen

- 1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (gxb), 71.28 (5e), 71.30
3 (3) (epb), 71.47 (5e) and 71.49 (1) (epb) of the statutes; **relating to:** an income
4 and franchise tax credit for the sales and use tax paid on construction
5 materials, labor, and services that are sold under a lump sum contract.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for the sales and use taxes that a claimant paid on certain construction materials and services. The credit is equal to the sales and use taxes paid any amount charged as a part of a lump sum contract for tangible personal property or taxable services that are sold as part of the contract, if the total of all such amounts is less than 10 percent of the total amount of the contract and regardless of whether the amounts charged for labor and services are separately set forth from the amount received for the tangible personal property. Under the bill, a lump sum contract is a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for which the contractor subsequently itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓
1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), ~~and (5e)~~ ^{, and (5g)}
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

8 71.07 **(5e)** LUMP SUM CONTRACT CREDIT. (a) *Definitions.* In this subsection:

9 1. "Claimant" means a contractor who files a claim under this subsection.

10 2. "Contractor" has the meaning given in s. 77.51 (2).

11 3. "Lump sum contract" means a contract to perform real property construction
12 activities and for which the contractor quotes the charge for labor, services of
13 subcontractors, and materials as one price, including a contract for which the
14 contractor itemizes the charges for labor, services of subcontractors, and materials
15 as part of a schedule of values or similar document.

16 4. "Real property construction activities" has the meaning given in s. 77.51 (2).

17 5. "Subcontractors" has the meaning given in s. 77.51 (2).

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
20 amount of those taxes, an amount that is equal to the taxes imposed under ss. 77.52
21 and 77.53 that the claimant paid on amounts charged as part of a lump sum contract

1 for tangible personal property or taxable services that are sold as part of the lump
2 sum contract, if the total of all such amounts charged is less than 10 percent of the
3 total amount of the lump sum contract.

4 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
5 corporations may not claim the credit under this subsection, but the eligibility for,
6 and the amount of, the credit are based on their payment of amounts described under
7 par. (b). A partnership, limited liability company, or tax-option corporation shall
8 compute the amount of credit that each of its partners, members, or shareholders
9 may claim and shall provide that information to each of them. Partners, members
10 of limited liability companies, and shareholders of tax-option corporations may
11 claim the credit in proportion to their ownership interests.

12 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
13 s. 71.28 (4), applies to the credit under this subsection.

14 **SECTION 3.** 71.10 (4) (gxb) of the statutes is created to read:

15 71.10 (4) (gxb) Lump sum contract credit under s. 71.07 (5e).

16 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

17 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
18 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b), and (5e)~~ and passed
19 through to partners shall be added to the partnership's income.

20 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

21 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
22 the gross income as computed under the Internal Revenue Code as modified under
23 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
24 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
25 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income

2005 Wisconsin
Act 74,

(5g)
↑
plan

as affected by 2005
Wisconsin Act
74,

1 under this paragraph at the time that the taxpayer first claimed the credit plus the
2 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
3 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b), and (5e)~~ ^{and (5g)} ~~and~~ ^{← claim} not passed through by a
4 partnership, limited liability company, or tax-option corporation that has added that
5 amount to the partnership's, limited liability company's, or tax-option corporation's
6 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
7 other disposition of assets the gain from which would be wholly exempt income, as
8 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
9 minus deductions, as computed under the Internal Revenue Code as modified under
10 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
11 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
12 otherwise disposed of in a taxable transaction during the taxable year, except as
13 provided in par. (b) and s. 71.45 (2) and (5).

14 **SECTION 6.** 71.28 (5e) of the statutes is created to read:

15 71.28 (5e) LUMP SUM CONTRACT CREDIT. (a) *Definitions.* In this subsection:

16 1. "Claimant" means a contractor who files a claim under this subsection.

17 2. "Contractor" has the meaning given in s. 77.51 (2).

18 3. "Lump sum contract" means a contract to perform real property construction
19 activities and for which the contractor quotes the charge for labor, services of
20 subcontractors, and materials as one price, including a contract for which the
21 contractor itemizes the charges for labor, services of subcontractors, and materials
22 as part of a schedule of values or similar document.

23 4. "Real property construction activities" has the meaning given in s. 77.51 (2).

24 5. "Subcontractors" has the meaning given in s. 77.51 (2).

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, an amount that is equal to the taxes imposed under ss. 77.52 and 77.53 that the claimant paid on amounts charged as part of a lump sum contract for tangible personal property or taxable services that are sold as part of the lump sum contract, if the total of all such amounts charged is less than 10 percent of the total amount of the lump sum contract.

(c) *Limitations.* Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

SECTION 7. 71.30 (3) (epb) of the statutes is created to read:

71.30 (3) (epb) Lump sum contract credit under s. 71.28 (5e).

SECTION 8. 71.34 (1) (g) of the statutes is amended to read:

71.34 (1) (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g), (3n), (3t), and (5b), and (5e) and passed through to shareholders.

SECTION 9. 71.45 (2) (a) 10. of the statutes is amended to read:

as affected by 2005 Wisconsin Act 74,
and (5g) ← plain
as affected by 2005 Wisconsin Act 74,

1 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
2 computed under s. 71.47 (1dd) to (1dx), (3n), ~~and (5b), and (5e)~~ ^{and (5g)} and not passed
3 through by a partnership, limited liability company, or tax-option corporation that
4 has added that amount to the partnership's, limited liability company's, or
5 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
6 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

7 **SECTION 10.** 71.47 (5e) of the statutes is created to read:

8 71.47 (5e) LUMP SUM CONTRACT CREDIT. (a) *Definitions.* In this subsection:

9 1. "Claimant" means a contractor who files a claim under this subsection.

10 2. "Contractor" has the meaning given in s. 77.51 (2).

11 3. "Lump sum contract" means a contract to perform real property construction
12 activities and for which the contractor quotes the charge for labor, services of
13 subcontractors, and materials as one price, including a contract for which the
14 contractor itemizes the charges for labor, services of subcontractors, and materials
15 as part of a schedule of values or similar document.

16 4. "Real property construction activities" has the meaning given in s. 77.51 (2).

17 5. "Subcontractors" has the meaning given in s. 77.51 (2).

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
20 amount of those taxes, an amount that is equal to the taxes imposed under ss. 77.52
21 and 77.53 that the claimant paid on amounts charged as part of a lump sum contract
22 for tangible personal property or taxable services that are sold as part of the lump
23 sum contract, if the total of all such amounts charged is less than 10 percent of the
24 total amount of the lump sum contract.

1 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
2 corporations may not claim the credit under this subsection, but the eligibility for,
3 and the amount of, the credit are based on their payment of amounts described under
4 par. (b). A partnership, limited liability company, or tax-option corporation shall
5 compute the amount of credit that each of its partners, members, or shareholders
6 may claim and shall provide that information to each of them. Partners, members
7 of limited liability companies, and shareholders of tax-option corporations may
8 claim the credit in proportion to their ownership interests.

9 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
10 s. 71.28 (4), applies to the credit under this subsection.

11 SECTION 11. 71.49 (1) (epb) of the statutes is created to read:

12 71.49 (1) (epb) Lump sum contract credit under s. 71.47 (5e).

13 SECTION 12. 77.92 (4) of the statutes is amended to read:

14 77.92 (4) "Net business income," with respect to a partnership, means taxable
15 income as calculated under section 703 of the Internal Revenue Code; plus the items
16 of income and gain under section 702 of the Internal Revenue Code, including taxable
17 state and municipal bond interest and excluding nontaxable interest income or
18 dividend income from federal government obligations; minus the items of loss and
19 deduction under section 702 of the Internal Revenue Code, except items that are not
20 deductible under s. 71.21; plus guaranteed payments to partners under section 707
21 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
22 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), and (5b), and (5e); and
23 plus or minus, as appropriate, transitional adjustments, depreciation differences, ^{and (5g)}
24 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding ^{plan}
25 income, gain, loss, and deductions from farming. "Net business income," with respect

1 to a natural person, estate, or trust, means profit from a trade or business for federal
2 income tax purposes and includes net income derived as an employee as defined in
3 section 3121 (d) (3) of the Internal Revenue Code.

4 **SECTION 13. Initial applicability.**

5 (1) This act first applies to taxable years beginning on January 1, 2006.

6 (END)

Emery, Lynn

From: Waldrop, Joyce
Sent: Wednesday, January 04, 2006 3:54 PM
To: LRB.Legal
Subject: Submitted: LRB 05-3801/1 Topic: Sales and use tax related to lump sum construction contracts?body=

Please request a fiscal note.

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